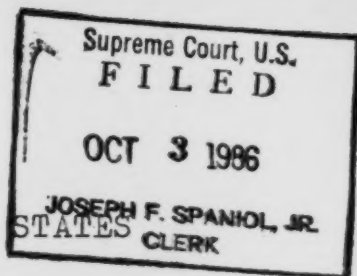


86-6670

NO.A-74

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1986



EARLENE POLYAK

Petitioner

VS

BUFORD EVANS & SONS

Respondent

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE UNITED STATES
FROM THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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34pp

EDITOR'S NOTE

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QUESTIONS PRESENTED

I

Whether the pro se litigant was denied due process in the use of the amendment of Rule 5(a) of the Tennessee Rules of Appellate Procedure in violation of the Fifth, Eighth and Fourteenth Amendments.

II

Whether the pro se litigant was denied due process in the dismissal of all cases in the United States District Court without oral argument or any kind of hearing in violation of constitutional rights.

III

Whether the pro se litigant was denied due process with the dismissal of all cases in docket control in the Court of Appeals without ever being heard and in violation of civil and constitutional rights.

IV

Whether the pro se litigant should be compensated for all costs and irreparable damages and the loss of right to never be regained in real and personal property in this and joined cases.

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IN THE
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BUFORD EVANS

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PETITION FOR WRIT OF CERTIORARI
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FOR THE SIXTH CIRCUIT

Petitioner Earlene Polyak, prays that a writ of certiorari under 28 U.S.C. 1254(1) issue to review the order of the United States Court of Appeals for the Sixth Circuit, United States District Court, Middle District, and the Circuit Court of Lawrence County, Tennessee, in the above joined cases.¹

¹Cases No. 85-6135(D.C.1:85-0116) Earlene Polyak v Jim T. Hamilton and the Circuit Court of Lawrence County, joined by 28 U.S.C. 1441(c), in District Court, 85-6135(D.C.1:85-0120) Buford Evans v Earlene Polyak; 85-5199(D.C.1:85-0120) Earlene Polyak v Thomas Stack, Henry Henry & Stack; 3-85X-108 Earlene Polyak v William Boston, Boston Bates & Holt, and D.C. 1:86-0036.

Arising out of Cases No. 84-6090(D.C.1:84-0082, Frank Hulen et al., v Earlene Polyak; 85-5032/5101/5164(D.C. 1:84-0083) Earlene Polyak v Frank Hulen and Wilma Lesnansky; S.Ct. 85-1975, 85-1991, and 86-35. Also 86-182.

OPINIONS BELOW

The opinion of the Circuit Court of Lawrence County, Tennessee is set forth in Appendix A. This case was joined to Case No. 1:85-0116, pursuant to 28 U.S.C 1441(c) in the United States District Court Middle District, and is set forth in Appendix B. And the opinion of the United States Court of Appeals for the Sixth Circuit is set forth in Appendix C.

JURISDICTION

The order of the United States Court of Appeals was entered on March 7, 1986. The order denying Petition to to Rehear was denied on May 12, 1986. The order extending the time for filing writ of certiorari has been extended sixty(60) days through October 9, 1986, and this writ is being filed within this allotted time.

The jurisdiction of this Court is invoked pursuant to Article III, Sec. 2, which states that the judicial power shall extend to all cases of law and equity, between a State and citizens of another State; and between citizens of different States.

Earlene Polyak v Jim T. Hamilton and the Circuit Court of Lawrence County pursuant to 28 U.S.C 1441(c). Petitioner believes that this remand is reviewable pursuant to 28 U.S.C 1443(1)&(2), and 28 U.S.C 1447(d), and the Supreme Court of the United States has power to issue any writ necessary for review. She believes the jurisdiction is also invoked under 42 USC Sec. 1981, 1982, & 1983, 60.02 FRCivP and Equal Access to Justice 5 USC 504.

The federal and constitutional questions were timely raised. Survey of land conducted without Petitioner's knowledge or permission ... expenses for appraisal of landowner and court costs... as a part of "just compensation" required by the Fifth Amendment, 59 L Ed 257. She believes survey to sell property at Public Auction in violation of "taking clauses" of the Fifth and Fourteenth Amendments.

Petitioner believes that "An amendment to Rule 5(a) of the Tennessee Rules of Appellate Procedure effective August 15, 1985, deleted the requirement that a copy of the notice of appeal be filed with the appellate court" allows for discrimination against sex, race, pro se litigant, non-resident and violates the Fifth and Fourteenth Amendments.

CONSTITUTIONAL PROVISIONS

The pertinent portion of the Fifth Amendment provides as follows:

No ... person shall be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

U.S. Const. Amend. V cl 3 & 4

The pertinent portion of the Eight Amendment provides as follows:

... nor excessive fines imposed, nor cruel and unusual punishment inflicted.

U.S. Const. Amen.VIII cl. 2&3,

The pertinent portion of the Fourteenth Amendment provides as follows:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law, nor deny any person within its jurisdiction the equal protection of the laws.

U.S. Const. Amend.XIV.

28 USC 1443 Civil actions ... commenced in a State Court may be removed by defendant to District

(1) Against any person who is denied or cannot enforce in the Courts of such State a right under any law providing for equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof.

(2) For any act under color of authority depriving from any law providing for equal rights...

42 USC Sec. 1982 All citizens in the US shall have the same right in every State... to inherit... hold and convey real and personal property.

STATEMENT OF THE CASE

This is the fourth case dismissed without oral argument or any kind of hearing by the United States District Court, Middle District of Tennessee, and this dismissal of the pro se litigant's case has been affirmed by the United States Court of Appeals for the Sixth Circuit. Petitioner is not a lawyer and does not any knowledge of the legal profession, but believes that local political influence and prejudice prevents a female pro se litigant from being heard and receiving equal access to justice in the State Court.

Petitioner sought protection from these prejudices as a non-resident under diversity of citizenship in the United States District Court on the grounds that she has been denied civil and constitutional rights and due process in the State Court. She believes she has been denied these same constitutional rights in the District Court, which has been affirmed by the Court of Appeals, and in violation of the Fifth and Fourteenth Amendments to the Constitution.

This case arises out of Mr. Buford Evans & Son's, Real Estate Auctioners, invalid survey of Petitioner's property located in Lawrence County, Tennessee, and a hearing to sell this property conducted by the Honorable Jim Hamilton in Maury County, Columbia, Tennessee on July 29, 1983. She believes this hearing was unfair and unjust and that she was denied due process in civil and constitutional rights in the order to sell this property without any compensation and in violation of the "taking clauses" of the Fifth and Fourteenth Amendments. Petitioner sought relief from the United States District Court No. 1:84-0082.

This property was divided by settlement by agreement initiated by Frank Hulen and Wilma Lesnansky in 1976. as a result of this agreement Petitioner and her husband, Alex Polyak restored and maintained the house on their agreed partition at their own expense to this date, which is ten(10) years. Petitioner's husband is thought to belong to another race and a second generation american. In 1982, Frank Hulen stated that he wanted this property sold so his "kids could buy it," without offering any compensation for Petitioner's investm

They retained the attorney for the family since 1976, William Boston, Boston Bates & Holt, and he divided his lolyalties and filed a Complaint No. 1974 in the Chancery Court of Lawrence County to sell this property. Mr. Boston identified Petitioner as a non-resident on the complaint, which she believes resulted in prejudice in the State Courts against her. She believes that Mr. Boston may have been negilent or malfeasant in his protection of her civil and constitutional rights in the State Courts. Petitioner filed Complaint No. 10611, in the Circuit Court of Lawrence County, paid for Nonsuit on April 25, 1985, and later submitted Complaint No. 3:85X-108, which the Honorable Thomas A. Wiseman denied filing on November 20, 1985. Judge Wiseman disregarded second Comlaint No. 1:86-0036, submitted to District Court.

Petitioner relieved the first attorney, when she suspected that he was trying to help sell her property, and after he sent a Real Estate Auctioneer to appraise the lroperty for sale at Public Auction. Mr. Lee England stated, "it is my considered opinion as a practicing attorney of this Court that your property will be sold,..." (Chancery Court Lawrence County).

Petitioner was denied an extension of time to find another attorney by the Honorable Jim Hamilton. She retained Thomas Stack Henry Henry & Stack, Pulaski, Tennessee through lawyers referenced in Nashville. Mr. Stack stated that he wanted \$150,000 for research and to go against his friends in Lawrenceburg. He promised to defend the settlement by agreement and protect Petitioner's investment in Partition in Kind, which are legal and binding in Tennessee Statute and Case Law.

After only two weeks preparation Mr. Stack was ready to go to trial. Initially he had inferred that this trial would last all day, Petitioner assumed it would be a jury trial as she has never been to trial in Tennessee. She had informed Mr. Stack that she was suffering from heart failure, sensitive to heat and cold and other complications as a result of open-heart surgery, and semi-invalid.

Petitioner was already suffering from heat and a nationwide warning against heart patients exposing themselves to this 102 degree heat wave, and asked Mr. Stack to reschedule hearing on July 29, 1983. He stated that William Boston absolutely refused to schedule hearing.

Judge Hamilton verbally ordered this property sold when Mr Stack started to give summary, at a hearing conducted in a county other than complaint filed, within two hours, while the jury was out on another trial on July 29, 1983. Mr. Stack did not make motion for a new trial as Petitioner requested on August 1, 1983. He signed the order prepared by Boston Bates & Holt, and signed by William Boston against Petitioner's objections on October 19, 1986, to him and to Judge Hamilton as unconstitutional.

This order to sell property by Boston Bates & Holt describes the property as three distinctly different types of property, which can not be divided equally and supports sale. Petitioner compared Mr. Evans map of this property and the description in the order of sale. She found that Mr. Evans map is an invalid representation both to the aerial map and her knowledge of this property. Petitioner has been informed that Mr. Evans testified for Mr. Boston at property condemnation trials. This order to sell also stipulates that "the proceeds of of this sale after payment of all expenses incident to sale, including attorney fees will be divided equally between the heirs, except that the cost of

this case shall be deducted from defendant's share of said proceeds. This sale shall be conducted by Eulan Hooper..." She has learned that Mr. Hooper is on probation with Tennessee Real State Commission and Mr. Evans is not a licensed surveyor.

On December 19, 1983, Petitioner stated to Judge Hamilton that the first hearing was unfair and unjust and unconstitutional when she tried to argue Notice for a New Trial and Amendment or Alteration of judgment for just compensation(App.p.13) She had objected that trial of July 29, 1983, unfair unjust and unconstitutional and asked for a New Trial on August 1, 1983, but Mr. Stack disregarded. After assuming case, Petitioner found that Mr. Stack did not enter into the record, Memorandum Brief, Bills for Restoration of House, Evaluation of Property by Mr. Evans, or provide for a Transcript of the Proceedings.

Petitioner filed Complaint No.10612, against Mr Stack Henry Henry & Stack in the Circuit Court Lawrence County, paid for nonsuit on April 25, 1984 and later submitted complaint to District Court No 1:85-0125, which was joined to 1441(c). Judge allowed complaint filed on negligence and malfeasance 12/3/85

Judge Wiseman disregards all motions, ^{or} three motions to schedule jury trial.

Mr. Evans alleges that Mr. Thomas Stack retained him to measure Petitioner's property. She had never seen Mr. Evans, and had informed Mr. Stack that another Real Estate Auctioneer had already evaluated property and suggested that Mr. Stack contact this man to save expense of evaluation for hearing on July 29, 1983. The first indication that Petitioner was to pay Mr. Evans was sometime in November, 1983, after Mr Stack signed order without any compensation for her expenses in restoration of house for retirement home, and prior to his dismissal on December 19, 1983. Petitioner had already started to suspect that she would pay for the division of the property into three parts for sale a Public Auction as is the custom, before putting all of the parts together for final sale, in addition to all of the costs of the case. Mr. Evans filed Complaint No. 10649 in the Circuit Court of Lawrence county on July 26, 1984.

The Honorable B.E Bryant was not in General Sessions Court on October 1, 1984, but a young man took his feet off the back of a bench and held

Court. He appeared to give deference to Mr. Evans and decided in his favor, but stated decision could be appealed in ten days.

When Petitioner tried to appeal decision Gerald Wilson, Circuit Court Clerk demanded that she come to Tennessee. After traveling all night on a bus, which caused pain and suffering, Mr. Wilson demanded that she get a copy of the deed to an additional forty(40) acres before he would allow appeal. Petitioner left with the understand that hearing would be held in April, 1985, session of Court.

Petitioner recieved a notice to appear in Lawrenceburg on December 26, 1984. She was acutel ill as a result of her heart condition and acute bronchitis and her physician's recommended that she go to Florida early as she goes there each winter for her health. Petitioner submitted Motion for a Continuance, but Judge Hamilton disregarded motion, physician statement, and Affidavit and ordered her to trial on December 26, 1984.

Petitioner finally submitted Motion for Judge Hamilton to disqualify himself as she believed th he had never ruled in her favor, disregarded all

motions, and was prejudiced toward to her, which altered his ability to use judicial discretion in the administration of justice.

Petitioner's husband and son drove with her in the back seat of the car on pillows from Florida to Lawrenceburg for trial in defense of second property. Petitioner did not expect to go to trial, was acutely ill, and too ill to even review notes. She did not have time to try to retain attorney and had to try to defend herself.

Judge Hamilton denied motion to disqualify himself, and all of Petitioner's objections. She stated that to cause her to appear at trial when acutely ill was "crue and unusual punishment and in violation to the Eight Amendment. All of this information is in the transcript of the proceedings which should be in the United States District Court. Thomas Stack testified and presented confidential information at this trial against Petitioner(App.20)

Judge Hamilton disregarded motions and did not enter judgment for Petitioner to appeal on the basis that he influenced the jury and that this decision should be set aside. Finally, after Petitioner submitted application for permission to

appeal to the Court of Appeals in Tennessee, and then to the Supreme Court, it appears that Judge Hamilton was influenced to enter judgment, but he denied motion to forward records to Court of Appeals for appeal on November 7, 1985

On August 15, 1984, Rule 5 (a) was amended so that a copy of the notice of appeal was not filed with the Court of Appeals by the Tennessee Rules of Appellate Procedure. Petitioner believes that this ruling is unique to other states, and allows for discrimination to race, sex, pro se, non resident, and denies civil and constitutional rights of due process and in violation of the Fifth and Fourteenth Amendments and used by Judge and Clerk

On December 26, 1986, Petitioner checked the files in the Circuit Court of Lawrence County and found what appears to be a denial of her objection to the sale of her property in Chancery Court signed by Jim T. Hamilton on October 9, 1984, on Nonsuit No. 10611, against William Boston Boston Bates & Holt, and Nonsuit No 10612 against Thomas Stack Henry Henry & Stack. She has heard these lawyers carried political waters for Judge Hamilton in his election to Circuit Judge.

On November 8, 1985, Petitioner filed a Complaint No. 1:85-0116 against Jim T. Hamilton in his individual and judicial capacity and the Circuit Court of Lawrence County. She petitioned to remove Case involving Buford Evans and cross-claim of \$10475.00, No. 1:85-0120 to 1:85-0116 pursuant to 28 U.S.C. 1441(c). She petitioned to join District Court No. 3:85X-108 and District Case No. 1:85-0120 to 1:85-0116 pursuant to 28 U.S.C. 1441(c). Judge Wiseman immediately dismissed Case No 1:85-0116 and enjoined Petitioner from filing further cases involving the property in Lawrence County, on November 13, 1985.

Judge Wiseman dismissed Buford Evans No. 1:85-0120 and remanded it back to the State Court. The Court of Appeals dismissed this case before allowing appeal under 28 U.S.C. 1443, No. 85-6134, but the supervisor allowed Petition to Rehear, and this is the subject of this writ of certiorari.

The case against lawyers No. 3:85X-108, was denied filing by Judge Wiseman and complaint 1:86-0036 was submitted and is closed in District Court. Case No. 1:85-0125 has been answered and Petitioner has submitted three motions to schedule jury trial.

REASONS WRIT SHOULD ISSUE

- I. The amendment of Rule 5(a) of the Tennessee Rules of Appellate Procedure denies due process and deprives the pro se litigant of an interest in real and personal property and is in conflict with applicable decisions of the Supreme Court

The amendment of Rule 5(a) of the Tennessee Rules of Appellate procedure deletes the requirement that a copy of the notice of appeal be filed with the Court of Appeals from the lower Courts. Petitioner believes that the amendment of this rule allows for discrimination, as to who is allowed to appeal, against sex, race, nonresident, pro se litigant by placing the power of the State in the Clerk or Judge of the lower Court. She contends that this ruling has been used to deny her due process and deprive the pro se litigant of civil and constitutional rights of interest in real and personal property (App.p.30)

An amendment to Rule 5(a) of the Tennessee Rules of Appellate Procedure effective August 15, 1984, deleted the requirement that a copy of the notice of appeal be filed with the clerk of the appellate court.

On October 1, 1984, the Circuit Court Clerk closed this Case 10647, Buford Evans v Earlene Polyak, when notice of appeal transcript and issues were properly before the Circuit Court of Lawrence

County to appeal decision of December 26, 1984, and get judgment set aside (App. p: 31). Judge Hamilton denied Restraining Order against sale of property on October 17, 1985, and motion to Forward Record on Appeal on November 7, 1985. The denial to forward record to Court of Appeals involving real and personal property when appeal as a right properly before the Court is denial of due process and deprives pro se of interest is in conflict with applicable rulings of the Supreme Court.

The Supreme Court has... recognized that due process requirements are implicated whenever the enforcement of a power of government is employed to deprive an individual of an interest to deprived from common law, in peaceful possession, Lindsey v Norbert, 405 US 56(1972) or use, Mulland v Central Hanover Bank & Trust Co., of real or personal property... whether such property is being taken to meet the need of government or the private individual, Ewing v Mytinger & Casselberry, 339 US 59(1950).

Petitioner contends that she was denied fair and just hearings and due process requirements involving real and personal property conducted by Judge Hamilton in State Courts in the deprivation of an interest this property. She complained to attorney for the defense, Thomas Stack of an unfair and unjust hearing on August 1, within three days after Judge Hamilton ordered her property sold on

July 29, 1983. Petitioner stated again before Court room full of people and Judge Hamilton that she received an unjust and unfair hearing and asked for a New Trial on December 19, 1983. She premised Motion for a New Trial on (1) Petitioner was taken across County lines for trial which is against Tennessee State law; (2) Wilma Lesnansky signed complaint but did not testify and was not present in the Court; (3) valuable evidence was withheld from the trial; (4) Petitioner was forced to attend trial while ill; (5) Petitioner's case was not given adequate time and consideration by the Court due to the fact that hearing held within two hours while the jury was out on another trial.

The Motion to alter or amend judgement of July 29, 1983 was predicated on the failure of the Court to award monies for restoration and maintenance of retirement home since 1976, which was assessed at \$1,950. As a result of restoration it was assessed at \$8,100.00 in 1982 (see App. p 9).

On December 20, 1983, Judge Hamilton signed unappealable judgment prepared by Boston Bates & Holt, signed by Charles Holt. On January 10, 1984, Judge Hamilton signed order dismissing Thomas Stack

Henry Henry & Stack, which was also signed by William Boston. The Court of Appeals issued order stating that order should have been appealed instead of judgment on April 26, 1984(App. p. 13, 14, 15). Judge Hamilton instructed Petitioner to appeal judgment of December 20, 1983.

On December 26, 1986, Petitioner found what appeared to be a dismissal of her objection to the sale of her property in Chancery Court Case No. 1974, on Nonsuit Nos 10611, and 10612 in the Circuit Court of Lawrence County, signed by Judge Hamilton on October 9, 1984(see App. 25,26, 27). This discovery was made prior to Petitioner's application for permission to appeal to the Court of Appeals, while motion for nonsuit was pending in Circuit Court. Petitioner paid nonsuit on April 25, 1986.

The Circuit Court Clerk Gerald Wilson demanded that Petitioner bring a copy of the deed to an additional forty(40) acres of property in Lawrence County before he would allow appeal to Buford Evans case, and trial was to be scheduled during April 1985 session of Court.

Petitioner was again denied due process in conflict with applicable decision of the Supreme

Court, Lindsey v Norbit, supra. When she was notified to appear before Judge Hamilton on December 26, 1985. She did not expect to go to Court until April 1985 and did not get to look for a lawyer. Petitioner was acutely ill and two physicians recommended that she go on early to Florida. She submitted Motion for a continuance, which Judge Hamilton disregarded. Finally Petitioner submitted Motion for Judge Hamilton to disqualify himself from her case as she felt that he had denied all motions and never ruled in her favor, and she believed that his prejudice toward her prevented his administration of justice in any case involving her and denying due process civil and constitutional in violation of the Fifth and Fourteenth Amendment.

"the assurance of a fair hearing before a neutral magistrate " who has no direct personal, substantial interest in reaching a conclusion against him in his case. Tuny v. Ohio, 273 US 510523(1927).

Mr. Buford Evans entered upon Petitioner's property Case No. 1947, without her knowledge or permission, which had already been evaluated and this information was given to Thomas Stack. Mr. Evans alleges that Mr. Stack retained for this service, it follows that his law suit should have been against

le Thomas Stack. Mr Stack testified that he retained
98 Mr. Evans as a surveyor, but he does not have a
5, surveyor's license, and he admitted on October 1,
as 1, 1984 that his map is not scale. Petitioner is of
the opinion that this map will be used to sell the
a property at Public Auction. She releaved Mr. Stack
on December 19, 1984, after many incidents in which
sne believed that he was not representing her best
interest. Petitioner learned that Mr. Stack did not
enter memorandum brief, bills for restoration of
retirement home, evaluation of property, which Mr
Evans sues for survey, or provide a transcript of
the proceedings for the record. She believes that
Mr. Stack Henry Henry & Stack failed to protect her
civil and constitutional rights.

Claim of lack of assistance of trial counsel
presented important constitutional question
warranting the granting of certiorari. Canley
v Cochran, Fla. 1962 82 S Ct. 884 369 US 506
8 L Ed 2d 70

At the trial on December 26, 1984, Judge Hamilton
refused to disqualify himself, and Petitioner objected
again to being brought in the back of a car by her
husband to try to defend another forty (40) acres
o property. She stated that his was harassment cruel
and unusual punishment in violation of the Eight

Amendments(See App P. 21,22,23 from transcript of proceedings). Judge Hamilton came to Mr. Stack's defense,allowed him to testify against Petitioner, and enter confidential information before the jury

On November 8, 1985, filed complaint grounded in the denial of civil and constitutional rights against Jim T. Hamilton and the Circuit Court of Lawrence County in the United States District Court No. 1:85-0116, and joined counterclaim for \$10475.00 against Buford Evans & Sons 1:85-0120 under 1441(c) and joined complaint against Thomas Stack, Henry & Stack 1:85-0125, and William Boston Boston Bates & Holt 3:85X-108. She believes that the civil and constitutional questions were properly and timely raised in the State Court to give jurisdiction for review by writ of certiorari by the Supreme Court.

II. The United States District Court denies pro se litigant due process civil and constitutional rights when dismissing cases without oral argument and any kind of hearing and remands case back to State

The District Court denies pro se litigant due process civil and constitutional rights in dismissing cases without being heard and the departure is so far sanctioned by the Court of Appeals to call for exercise of Supreme Court power of supervision.

The Honorable Thomas A Wiseman, dismissed the complaint against Jim Hamilton et al, without oral argument or any kind of hearing within five days on the Court's own motion and enjoined Petitioner from filing further cases on November 13, 1985; (See App p. 36). Petitioner joined this Case No 1:85-0120, Buford Evans v Earlene Polyak to the above Case No. 1:85-0116, under 28 U.S.C 1441(c). (See App. p. 35). Judge Wiseman dismissed this case within fourteen (14) days without oral argument or any kind of hearing and remanded it back to the State on November 26, 1986. Contrary to Clerk's statements in order, petition contained all copies denied, it is backed with "good surety" by her on October 10, 1984, and signed by her husband Alex Polyak on December 26, 1984, in addition Circuit Court Clerk Gerald Wilson demanded a copy of deed to (40) additional acres owned by Petitioner in Tennessee, and a letter to Mr Wilson has been sent to the Circuit Court, ^{for record} but it is disregarded as all of her motions. If Judge Hamilton denied Petitioner appeal by denial of forwarding records, it follows that they would not verify petition about unfair second unfair trial.

Petitioner believes District Court has

jurisdiction through 1441(c).

district court could not have relied on statute providing for remand whenever a separate and independently removable claim or cause of action, where not only all claims arise from the same acts of the defendants, but also sought redress of action, 28 USC 1441(c) Romulus Community Schools, 729 F2d 431(6th Cir 1984).

Petitioner believes that Mr. Evans survey of property already evaluated without Petitioner's knowledge or permission and that this invalid map will be used to sell her property at Public Auction involves 28 USC 1447(d) and 60.02 FRCivP and that District Court has jurisdiction in diversity.

The jurisdiction of the district court arising from diverse citizenship extends to the entire suit and to every question state or federal in its determination. Wichita Light Co. v Public Utilities Co. Kans. 1922 43 S Ct. 51 260 U S 67.124.

Judge Wiseman dismissed case against Jim Hamilton and remanded case joined by 1441(c), which involved the trial of Evans and Mr. Stack testified against Petitioner. Judge Hamilton denied forwarding of record to get Judgment set aside in trial he held

And some of the cases imply that permitting remand of pendent state claims denies defendant the protection of the Removal Statute and encourages manipulative dismissals. In Re: Greyhound Lines Inc. 598 F2 d 884.

Judge Wiseman denied filing of Complaint No.

3:85X-108 against William Boston Boston Bates & Holt which was joined to 1441(c). He disregarded filing second against William Boston Boston Bates & Holt and admitted that the order enjoining Petitioner from filing cases in the District Court No. 1:85-0116 (Hamilton et al.), on November 13, 1985 resulted from complaint against members of the District Court, Columbia Tennessee, in a letter on April 30, 1986(Ex. 30).

... previous order of November 13, 1985, whereby Mrs Polyak was enjoined from filing any further suits in this Court arising out of the partition sale of her property in Lawrence County. That order was entered because of the previous filings of Mrs. Polyak against various members in this Court...

This was the third case filed in the District Court No. 1:85-0116, and Judge Wiseman must be referring to State Courts. Petitioner has tried to appeal this order and the order issued on May 2, 1986, in which Judge Wiseman again enjoined her from filing cases in the District Court. She believes Case No 85-6534, Buford Evans & Sons v Earlene Polyak properly before the District Court, and that the Court of Appeals has so far sanctioned the departure of the District Court to call for exercise of the Supreme Court's power of supervision.

III. The united States Court of Appeals denied pro se ligitant due process civil and constitutional rights in remanding case back to the State Court by affirming dismissal in District Court.

The Court of Appeals remanded Case No. 85-613 (D.C. 1:85-0120) Buford Evans v Earlene Polyak by dismissing appeal from District Court and neither Court heard oral argument or any kind of hearing. This case was dismissed in docket control without motion in the Court of Appeals after conversation between Mrs. Yvonne Henderson, Case Supervisor, and Mr. Evan's attorney Larry Brandon(See App.p.43).

Although Mrs. Henderson allowed Petition to Rehear, it does not appear be considered in the second dismissal by docket control(See App.p. 43-45). All of pro se ligitant's cases involving the denial of due process civil and constitutional rights of property interest have been dismissed in District Court and dismissed again in docket control in the Court of Appeals.

This case was appealed in Petition to Rehear under 28 U.S C. 1443, and grounded in the denial of civil and constitutional rights in violation of Fifth and Fourteenth Amendments and 28 U.S.1447 as a result of Judge Wiseman's accusations(App p.47).

... except that an order remanding a case to the State Court from which it was removed pursuant to Sec. 1443 shall be reviewable by appeal or otherwise.

And supported by local political influence and prejudice, which meets the two pronged test under 1443.(1)(2), and cases Johnson v Mississippi, 421 US 213 222(1975), Smith v Winter, 717 F 2d 191 194(5th Cir. 1983. Appellant contends Mr. Evans map invalid representation of property and does not conform to initial division between co-tenants(See App. p. 10, 11, 12), and it appears to have been used by the State Trial Judge in his order to sell property(See App. p. 7).Detroit Police Lts. & Sgts. Ass'n v City of Detroit, 597 F2dat 568. It also appears that Judge Hmlton used the amended Rule 5(a) to deny forwarding the record of the trial he conducted in this case as law of State(App p. 31). And removal is proper under 1443(2) and completes two pronged test, and 1447(d) Noel v Cain, d38 F 2d 633(6th Cir. 1976). Petitioner contends that invalid map which may be used for sale of Property at Public Auction may be cause under to waive any time requirements with diversity of citizenship and original jurisdiction joined by 1441(c) to 1:85-0116.

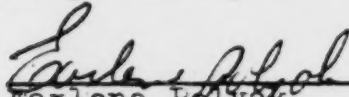
Mr. Evans entered upon Petitioner's property without her knowledge or permission. She believes that Mr. Evans' law suit should have been lodged against Thomas Stack, Henry Henry & Stack. Petitioner believes she has been unjustly obligated to defend her right to her properties as a result of Mr. Evans allegations in the Lawrence County Circuit Court, United States District Court and the United States Court of Appeals, and ~~in~~ resulting obligation to defend her right as a pro se litigant she has been denied due process civil and constitutional rights and in violation of the Fifth Eighth and Fourteenth Amendments.^{2(a)} Petitioner contends that counter-claim of \$10475.00, and all costs of these appeals should be paid by Mr. Evans.

CONCLUSION

Petitioner prays that this Honorable Court issue writ of certiorari to review this and related cases and award just compensation for irreparable damages and the loss of a right to never be regained in her retirement home. And in the alternative she prays all judgments and orders be set aside and that orders issue for New Jury Trials.

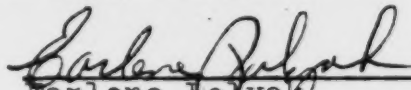
On the 29th day of September, 1986.

Respectfully submitted,


Earlene Polyak
3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364

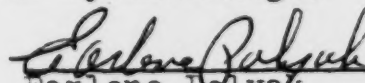
CERTIFICATE OF SERVICE

I certify that a true and exact copy of this pleading has been mailed by First Class Mail postage prepaid to Mr. Larry Brandon, P.O.Box 5065 Uptown Station, Mufreesboro, Tennessee 37133, and all parties of interest in this pleading.


Earlene Polyak

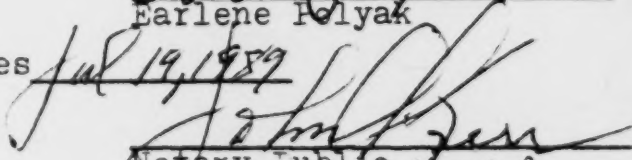
STATE OF MICHIGAN
COUNTY OF WAYNE

I certify that the above information is true and correct to the best of my knowledge.


Earlene Polyak

My comission expires

Jul 19, 1989


Notary Public

JOHN C. KERR

² but Supreme Court may review an action of Circuit Court of Appeals dirceting a remand to a state court, and Supreme's Courts jurisdiction is not defeated because mandate of Circuit Court of Appeals has issued. Aetne Causality & Sur. Co. v Flowers, Tenn 1947
67 S Ct. 798 330 US 464 91 L Ed 1024.